

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.5100 Composite Returns: Eligibility (IITA Section 502(f))

SUBPART P: COMPOSITE RETURNS

Section 100.5100 Composite Returns: Eligibility (IITA Section 502(f))

- a) In General. A composite return may be filed on behalf of nonresident individuals, trusts, and estates who derive income from Illinois and who are partners, or subchapter S corporation shareholders, or who transact insurance business under a Lloyd's plan of operation (for a definition of a "subchapter S corporation" see IITA Section 1501(a)(28); for a definition of a "Lloyd's plan of operation" see Section 100.5170). The respective partnership, subchapter S corporation or insurance business shall file the composite return and shall make composite income tax payments. The composite return may include income and tax of Illinois residents if the petition described in subsection (c) is granted. The right to file a composite return is applicable to taxable years ending on or after December 31, 1987 and prior to December 31, 2014, except for Lloyd's plans of operation, which may file composite returns for any tax year ending on or after December 31, 1999. (See IITA Section 502(f).) Also, partnerships and subchapter S corporations may continue to report changes to the Illinois income tax liabilities of their partners and shareholders, and pay any additional tax owed by the partners or shareholders for any tax year ending on or after December 31, 2008, as provided in Section 100.5180(b).
- b) Eligibility. The right to be included in a composite return is limited to nonresident and resident individuals, trusts and estates who are partners of the same partnership, shareholders of the same subchapter S corporation, and to resident or nonresident taxpayers transacting an insurance business in Illinois under a Lloyd's plan of operation. The eligibility of resident individuals, trusts and estates who are not transacting an insurance business under a Lloyd's plan of operation is conditioned upon compliance with subsection (c).

EXAMPLE: The Acme partnership consists of a general partner and 50 limited partners. The general partner is a regular corporation, and the limited partners consist of 26 nonresident individuals, 20 resident individuals, a subchapter S corporation, a partnership, a nonresident trust and an estate. The 26 nonresident individuals, the nonresident trust and the nonresident estate are automatically eligible to be included in a composite return. The 20 resident individuals may be included in the composite return with the nonresidents if the Department grants their petition. None of the other entities may be included in the composite return.

- c) Petition for Residents. Individuals, trusts and estates that are residents of Illinois may be included in a composite return if the authorized agent files a petition with the Department of Revenue and the petition is granted. The Department shall grant the petition if the authorized agent clearly demonstrates that no other method of filing would achieve the same degree of compliance and administrative ease for both the Department and the taxpayers. Factors to be considered in granting the petition include: the quantity of partners or shareholders involved; the inability of the authorized agent to

file the composite return except in this manner; and the availability of a reliable method for claiming credit on the separate returns pursuant to Section 100.5160. The petition must be filed prior to the end of the authorized agent's taxable year, and the petition must be granted or denied prior to the due date of the return without regard to extensions. Petitions should be mailed to:

Illinois Department of Revenue
Attn: Document Perfection Section
Post Office Box 19014
Springfield, Illinois 62794-9014

- d) **Inclusion of Eligible Members.** A composite return does not have to include all of the individuals who are eligible to be included in the return. Whether an individual is included in a composite return is a matter that should be decided by the individual and the entity. Persons not included in composite returns are required to meet their Illinois filing and payment obligations separately, and failure to do so could mean the imposition of civil and criminal penalties.

- e) **Nonresidents With Other Illinois Source Income.** Nonresident individuals, trusts and estates with Illinois source income other than from a partnership, subchapter S corporation, or Lloyd's plan of operation may, but need not, be included in a composite return. If those nonresidents are included in a composite return for a taxable year ending on or after December 31, 2008 (December 31, 1999, in the case of a composite return filed by a Lloyd's plan of operation), they may claim a credit against their Illinois income tax liability for their share of the tax paid on their behalf on the composite return. If nonresidents are included in a composite return for an earlier taxable year, they will not be permitted to claim credits on their individual returns for their shares of the composite tax payments unless the authorized agent files a petition with the Department of Revenue requesting permission for the nonresidents to claim the credit and the petition is granted. The Department shall grant the petition if the authorized agent clearly demonstrates that no other method of filing would achieve the same degree of compliance and administrative ease for both the Department and the taxpayers. Factors to be considered will be the same as for petitions pursuant to subsection (c). The petition must be filed prior to the end of the authorized agent's taxable year, and the petition must be granted or denied prior to the due date of the return without regard to extensions. If the petition is granted, credit will be claimed by the nonresidents for their share of the composite payments in the same manner and amount as permitted resident individuals under Section 100.5160. Petitions should be mailed to:

Illinois Department of Revenue
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Post Office Box 19014
Springfield, Illinois 62794-9014

(Source: Amended at 40 Ill. Reg. 15575, effective November 2, 2016)